

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Facilitating the Provision of Spectrum-)	
Based Services to Rural Areas and)	
Promoting Opportunities for Rural)	WT Docket No. 02-381
Telephone Companies To Provide)	
Spectrum-Based Services)	
)	
2000 Biennial Regulatory Review)	
Spectrum Aggregation Limits For)	WT Docket No. 01-14
Commercial Mobile Radio Services)	
)	
Increasing Flexibility To Promote)	
Access to and the Efficient and)	
Intensive Use of Spectrum and the)	WT Docket No. 03-202
Widespread Deployment of Wireless)	
Services, and To Facilitate Capital)	
Formation)	

**COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

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SUMMARY

The Cellular Telecommunications & Internet Association (“CTIA”) supports Commission efforts to further develop wireless services in rural areas. In doing so, however, the Commission should continue to embrace the pro-competitive policies that have already done so much to speed the deployment of competitively priced wireless service offerings to rural America. As the Commission’s own internal data indicate, consumers in all U.S. counties or local government equivalents have access to wireless services, except for one recently created borough in Alaska. Furthermore, 95 percent of the U.S. population has three or more operators offering mobile service in the counties in which they live. This intense competition has led to both very competitive pricing and new and innovative services. As the Commission moves forward, it should remain mindful of the success that has grown out of both the Commission’s pro-competitive wireless policies and technologically-neutral Eligible Telecommunications Carrier (“ETC”) designation process.

The Notice requests input on a number of questions, beginning with the appropriate definition of “rural area” for use in conjunction with the Commission’s policies. CTIA believes that the Commission should adopt a flexible definition of “rural areas” that includes areas that either: 1) fall within a Rural Service Area (“RSA”) or 2) are in counties with a population density of 100 persons or fewer per square mile. CTIA also believes that wireless providers should be afforded additional flexibility in construction requirements through the addition of a “substantial service” benchmark to the current construction benchmarks in all wireless services. The Commission should

not, however, impose additional construction requirements on subsequent license renewal terms.

The Notice also discusses possible ways to improve access to unused spectrum. CTIA does not believe that a spectrum audit is necessary in rural areas at this time. Furthermore, the Commission should not create “easements” or underlays” for new licensed spectrum until a full framework is developed that will prevent interference to CMRS services. For future auctions, CTIA recommends that the Commission adopt the PCS “complete forfeiture” standard as the best approach for promoting the deployment of infrastructure in rural areas.

Certain other regulatory changes may also help facilitate further wireless development in rural areas. CTIA supports Commission efforts to investigate the possibility of increasing power levels in rural areas, so long as these studies responsibly address any potential interference concerns. CTIA also encourages the Commission to take a balanced approach to geographic service areas, and mix combinations of larger geographic service areas with smaller geographic service areas in new spectrum blocks. The Commission can also help facilitate access to capital by completely eliminating the cellular cross-interest role in RSAs, and working with the Rural Utility Service (“RUS”) to ensure that the RUS broadband loan rules are revised to ensure technological neutrality. Further Commission efforts to improve infrastructure sharing, including Commission action to remove state and local roadblocks to further wireless deployment, would also further facilitate wireless growth in rural areas.

Finally, CTIA supports Commission efforts to survey Rural Radiotelephone Service (“RRS”) and Basic Exchange Telecommunications Radio Service (“BETRS”)

users as a preliminary step to determine the effectiveness of those services. Should the data show that the RRS and BETRS spectrum is not being efficiently utilized, CTIA would support efforts by the Commission to reallocate the current RRS and BETRS spectrum to more efficient and commercially viable uses.

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**COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association (“CTIA”)¹ hereby submits comments in response to the Commission’s October 6, 2003, Notice of Proposed Rulemaking (“Notice”),² requesting comment on ways to promote the “rapid and efficient deployment of quality spectrum-based services in rural areas.”³ CTIA supports the

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services*, Notice of Proposed Rulemaking, WT Docket Nos. 02-381, 01-14, 03-202, FCC 03-222 (rel. Oct. 6, 2003) (hereinafter “Notice”).

³ Notice at ¶ 1.

Commission's efforts to further develop wireless services in rural areas. In doing so, CTIA urges the Commission to embrace the pro-competitive policies that have already done so much to speed the deployment of wireless service offerings at competitive prices to rural America.

OVERVIEW

The wireless industry currently provides highly competitive services throughout all regions of the United States, including rural areas. As the Commission's own internal data indicate, consumers in all U.S. counties or local government equivalents have access to wireless service, except for one recently created borough (county) in Alaska. Furthermore, as noted in the *Eighth CMRS Competition Report*, "270 million people, or 95 percent of the total U.S. population, have three or more operators (cellular, PCS, and/or digital SMR) offering mobile telephone service in the counties in which they live."⁴ This intense competition has led to very competitive pricing in both urban and rural markets. Indeed, an October 2001 analysis conducted by EconOne "found that there was virtually no difference in the average monthly charge for wireless service between urban and rural markets."⁵

In addition to fierce price competition, the wireless industry has also brought new advanced services to rural areas. As the *Eighth CMRS Competition Report* notes, "278 million people, or 97 percent of the total U.S. population, live in counties where operators

⁴ *Implementation of Section 602(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, Eighth Report*, 18 FCC Rcd 14783, 14823 (2003) (hereinafter "Eighth CMRS Competition Report").

⁵ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, Seventh Report*, 17 FCC Rcd 12985, 13024 (2002) (hereinafter "Seventh CMRS Competition Report").

offer digital mobile telephone service.”⁶ Wireless providers are also bringing innovative new data services to rural areas. For instance, Monet Mobile recently deployed wireless high speed 3G data networks providing Internet access with average speeds ranging from 300 to 700 kbps in a number of small cities and rural areas in the Upper Midwest.⁷

In fact, wireless providers offer the only telecommunications service in certain rural areas, providing vital links to public safety and community services. Much of this progress could not have occurred without Universal Service Fund (“USF”) support, and the designation of wireless service providers as Eligible Telecommunications Carriers (“ETCs”). Accordingly, as the Commission considers possible changes in its rural spectrum policies, CTIA urges the Commission to remain mindful of the progress that has already occurred as a result of the Commission’s technologically-neutral ETC designation process.

I. Definition of “Rural”

In the Notice, the Commission requests comment on the “appropriate definition of a ‘rural area’ for use in conjunction with each of the policies addressed in this proceeding.”⁸ Specifically, the Commission delineates a number of possible options for a

⁶ Eighth CMRS Competition Report at 14821.

⁷ See Monet Mobile Networks Questions & Answers, at 5 (*available at* <http://www.monetmobile.com/assets/qa.pdf>) (noting that Monet Mobile currently offers wireless data service in “Duluth and Moorhead, MN, Superior and Eau Claire, WI, Bismarck, Fargo and Grand Forks, ND and in Sioux Falls, SD”).

⁸ Notice at ¶ 10.

definition of “rural area,” and notes a number of suggestions made by commenters in the Rural Notice of Inquiry (“NOI”) proceeding.⁹

CTIA believes that the definition of rural area should be sufficiently flexible to deal with a variety of circumstances, and agrees with the Commission’s observation in the Notice that “one definition of ‘rural’ may not be universally applied to all situations.” Accordingly, CTIA recommends that the Commission adopt a flexible definition of “rural areas” that includes areas that either: 1) fall within a Rural Service Area (“RSA”) or 2) are in counties with a population density of 100 persons or fewer per square mile.

II. Performance Requirements

A. All Wireless Service Providers Licensed on a Geographic Area Should Be Allowed to Demonstrate “Substantial Service”

The Commission states in the Notice that “the current geographic area licensees without a ‘substantial service’ option or a rural-specific construction requirement may be unduly constrained and may lack sufficient flexibility to provide service to rural areas or offer niche services.”¹⁰ Accordingly, the Commission tentatively concludes that a substantial service benchmark should be added to the current construction benchmarks across all wireless services “as an additional means of satisfying our construction requirements.”¹¹

⁹ Notice at ¶ 11-12 (noting that a number of commenters in the Rural NOI suggested use of “the definition of an RSA” for rural areas, while others suggested “commuting patterns, or the number of persons per square mile”).

¹⁰ Notice at ¶ 35. The addition of a “substantial service” requirement would “affect the following licensees: 30 MHz broadband PCS licensees; 800 MHz SMR licensees (blocks A, B, and C only); certain 2020 MHz licensees; LMS licensees; MDS/ITFS licensees; and 700 MHz public safety licensees.” *Id.*

¹¹ Notice at ¶ 38.

CTIA supports the addition of a substantial service option in all services. The addition of this construction requirement option will provide carriers in rural areas a greater incentive and ability to raise necessary capital and to construct facilities and provide services that are situated to the needs of the rural area. The successful track record of rural deployment in CMRS services that have substantial service construction requirements has demonstrated that this approach is effective in ensuring rural consumers have access to competitive wireless offerings. The addition of a substantial service option will, in addition, harmonize the construction requirements across all services, and potentially increase the value of those licenses currently lacking the substantial service option, enhancing their ability to raise capital to expand deployment to rural areas.

In addition to extending the substantial service option to all services, the Notice also proposes two “safe harbors” for substantial service in rural areas. Under the proposed safe harbors, a mobile wireless licensee will be “deemed to have met the substantial service requirement if it provides coverage, through construction or lease, to at least 75 percent of the geographic area of at least 20 percent of the ‘rural’ counties within its licensed area.” Fixed wireless licensees would fall within the “safe harbor” if “a licensee, through construction or lease, constructs at least one end of a permanent link in at least 20 percent of the ‘rural’ counties within its licensed area.” CTIA generally supports the adoption of these “safe harbors.” However, in order to ensure that the substantial service option retains some flexibility, the Commission should reiterate that the “safe harbors” are only one tool to demonstrate compliance with the substantial service option, and clearly note that licensees may also demonstrate compliance through individual business plans that demonstrate service benefits in a rural area. Furthermore,

the Commission should clarify both the existing construction benchmarks and the proposed substantial service option to expressly indicate that leased spectrum will count towards satisfaction of either performance requirement.

B. The Commission Should Not Impose Additional Construction Requirements in Subsequent License Renewal Terms

The Commission also seeks comment on whether additional performance requirements should be imposed in subsequent license terms.¹² For instance, the Commission requests comment on proposals that would adopt additional geographic or population-based benchmarks beyond the “substantial service” or other construction benchmarks imposed during the initial construction term.¹³

CTIA opposes the imposition of additional performance requirements in subsequent license terms. Additional construction or “build-out” requirements will not assist in the development of wireless services in rural areas. In fact, they will likely have the opposite effect, by mandating uneconomic requirements that could adversely affect carriers seeking to serve rural areas by limiting their ability to raise capital, and by dictating that capital funds must be diverted from areas where additional construction or upgrades are necessary to other areas where additional construction or services is not economically viable. As detailed earlier in these comments, the wireless industry has already moved to provide numerous telecommunications options in almost every area of the country. The Commission should not disturb this success by imposing requirements that require operators to make construction decisions that are not economically viable or sustainable.

¹² See Notice at ¶¶ 43-45.

¹³ See Notice at ¶ 46.

It would be more appropriate for the Commission to promote service to rural areas through the operation of market forces, including the recently liberalized rules designed to facilitate secondary markets. As the *Seventh CMRS Competition Report* found, national wireless “one rate” plans bring the benefits of competition to rural markets and provide rural CMRS customers with the same prices as CMRS customers in the Nation’s largest markets. To the extent there are rural areas that are not economically viable to serve under these circumstances, the appropriate solution is to ensure carriers serving those areas receive adequate USF support to enable them to provide high quality, competitive offerings to consumers resident in those areas.

III. Improving Access to Unused Spectrum

A. There Is No Current Need for a Spectrum Audit in Rural Areas

A large portion of the Notice is focused around both methods to identify unused spectrum, as well as ways to better utilize that spectrum once it has been identified.¹⁴ With regard to identifying potentially unused spectrum, the Notice delineates two possible avenues of Commission action: 1) utilizing spectrum “audits” to find potentially available spectrum resources in rural areas; and 2) establishing a database of available “white space” in rural areas.¹⁵

CTIA does not believe that any action is necessary at this time, given that a shortage of available spectrum has not been shown to be a significant obstacle to the deployment of wireless service to rural areas. With regard to spectrum audits, the Commission’s limited audit resources would be better utilized finding available spectrum

¹⁴ See, e.g., Notice at ¶¶13-30.

¹⁵ See Notice at ¶ 23.

in congested areas, rather than conducting audits in rural areas where spectrum is generally available. In addition, the private sector is already deploying service in areas where demand exists. Accordingly, a Government-run database of available rural “white space” is not necessary at this time.

B. The Commission Should Not Create “Easements” or “Underlays” for New Licensed Spectrum

Notwithstanding the fact that the Commission has just begun to implement rules governing the development of secondary markets for spectrum, the Notice requests comment on whether the Commission should now “also consider alternate mechanisms such as government-defined easements.”¹⁶ In light of the significant issues related to interference, the Commission should not consider easements or “underlays” at this time. The Commission has an entire proceeding focused on the issue of the appropriate regulatory framework for such easements,¹⁷ and it would be premature for it to consider new rules in this context of this rural proceeding until the broader framework is established in a way that will ensure consumers are protected against interference. Instead, the Commission should focus its resources on fostering the development of secondary markets, which should allow for much more efficient use of spectrum resources without the potential for dangerous interference.

¹⁶ Notice at ¶ 30.

¹⁷ See *Establishment of an Interference Temperature Metric to Quantify and Manage Interference and to Expand Available Unlicensed Operation in Certain Fixed, Mobile and Satellite Frequency Bands*, Notice of Inquiry and Notice of Proposed Rulemaking, ET Docket No. 03-237, FCC 03-289 (rel. Nov. 28, 2003).

C. The Complete Forfeiture Model (“PCS Model”) Offers the Best Approach to Ensuring that Unused Spectrum Is Utilized

The Notice also requests comment on the type of spectrum re-licensing standards that should be applied in future spectrum auctions. Specifically, the Commission requests comment on whether the PCS “complete forfeiture” standard is appropriate, or whether the Commission should adopt some form of the “keep what you use” standard, which is applicable to cellular licensees.¹⁸

CTIA believes that the Commission should adopt the PCS “complete forfeiture” standard in future spectrum allocations. Under this standard, licensees that fail to meet construction benchmarks or substantial service standards (including leased spectrum) would completely forfeit their licensed spectrum. This approach has a clear track record of speedier deployment of service to rural areas by enabling carriers to attract capital and deploy their services in a cost-effective manner. At the same time, it ensures that valuable spectrum does not lay fallow in cases where a licensee fails to meet substantial service requirements.

IV. The Commission Should Explore Increased Power Limits

CTIA remains concerned over proposals to permit increased power levels in rural areas, as previously noted in comments submitted in response to the Rural NOI.¹⁹ Specifically, CTIA remains concerned that increased power levels -- if not carefully studied and implemented -- may cause a number of problems, including dangerous interference and equipment interoperability problems. However, there are promising new

¹⁸ See Notice at ¶ 26.

¹⁹ See Comments of the Cellular Telecommunications & Internet Association, WT Docket No. 02-381, at 9 (filed Feb. 3, 2003).

technologies that should be explored and, if warranted, power levels and other technical rules should be adjusted to accommodate technological advances.

There is evidence from other markets that increased power levels can increase the efficiency of providing wireless service in rural markets. Nortel Networks has provided the Commission with information detailing their experience in Australia, where a combination of additional tower height, tower top low-noise amplifier, and higher power on the forward link, extended the coverage of Telstra's network.

In the context of this proceeding, CTIA supports Commission efforts to further investigate the possibility of increasing power levels in rural areas, in a manner that responsibly addresses any potential interference concerns. Any study of this idea, however, must remain cognizant of the "challenges in implementing increased power levels for cellular-like mobile systems,"²⁰ and must ensure that any proposed solutions do not cause interference or impair the ability of CMRS customers to roam nationwide on a seamless network.

V. The Commission Should Pursue a Balanced Approach to Geographic Service Areas

The Notice also seeks comment on the appropriate size of geographic service areas.²¹ Specifically, the Commission requests comment on whether its policies governing the initial size of geographic service areas have effectively served the needs of various interests, including providers who offer service in rural areas.²²

²⁰ Notice at ¶ 52.

²¹ Notice at ¶¶ 59-71.

²² Notice at ¶¶ 65-68.

CTIA agrees with the Commission’s tentative conclusion that “it is in the public interest for the Commission to balance the needs of different providers, including the larger carriers’ need for economies of scale and the smaller carriers’ need for license areas that more closely resemble their service areas.”²³ In the future, CTIA recommends that the Commission pursue such a balanced approach for new spectrum blocks, and mix combinations of larger geographic service areas – such as Regional Economic Area Groupings (“REAGs”) – with some smaller geographic areas, such as Metropolitan Statistical Areas (“MSAs”) and RSAs.

While the specific design of service areas will vary depending on the characteristics of the specific license block, this balanced approach will provide substantial benefits by providing options for both national carriers and small providers operating in rural areas. For small carriers with limited resources, the balanced approach will allow these entities the opportunity to purchase additional spectrum to serve local areas. On the other hand, this approach will also create flexibility for carriers to efficiently aggregate spectrum during the auction process through the use of “package bidding” if market opportunities arise, provided this auction design proves effective in the future.²⁴

²³ Notice at ¶ 68.

²⁴ Providing a combination of license sizes, along with the Commission’s new secondary market rules, and its geographic partitioning and spectrum disaggregation rules, will allow the market to determine the most efficient license size, and permit carriers to react to new technologies and service offerings. There is no reason to assume that either large license areas (which may require partitioning and disaggregation to best serve rural markets) or small license areas (which may require consolidation with other licenses to best serve these markets) are not equal in their ability to adjust their size in order to be efficient.

VI. Facilitating Access to Capital

A. The Commission Should Eliminate the Cellular Cross-Interest Rule in RSAs

In the Notice, the Commission wisely recognizes the “importance of increasing capital formation options for licenses,” and, to that end, requests comment on whether “continued application of the existing cellular cross-interest rule in all RSAs may be impeding financing to and investment in rural areas.”²⁵ CTIA strongly believes that the cross-interest rule is impeding investment in and development of new wireless technologies in rural areas, and urges the Commission to eliminate the rule in its entirety.

Both the Commission’s decision to retain the RSA cross-interest rule in the *Spectrum Cap Sunset Order*²⁶ and the Commission’s tentative conclusion “to retain the cellular cross-interest rule as it applies only in RSAs with three or fewer CMRS competitors”²⁷ perpetuate an arbitrary rule that fails to account for the fact that rural customers receive the benefits of competition by virtue of the demand for national “one rate” service offerings – regardless of the number of competitors in a market – and that RSAs may have the same number of competitors (or even more) than adjoining MSAs, where the cross-interest rule has been completely repealed.²⁸ In this context, retention of a prophylactic RSA cross-interest rule cannot be seen as “reasoned decisionmaking”

²⁵ Notice at ¶ 90.

²⁶ See 2000 Biennial Regulatory Review; *Spectrum Aggregation Limits for Commercial Mobile Radio Services, Report and Order*, 16 FCC Rcd 22668 (2001) (hereinafter “Spectrum Cap Sunset Order”).

²⁷ Notice at ¶ 95.

²⁸ See Cingular Wireless LLC Petition for Reconsideration, WT Docket No. 01-14, at 3 (filed Feb. 13, 2002) (noting that in failing to completely repeal the cross-interest rule, “the Commission ignores the fact that many RSAs have substantial competition among numerous competitors, while some MSAs have far less”).

when the Commission has determined that case-by-case review in similarly situated areas actually provides superior public interest benefits.

Furthermore, retention of the RSA cross-interest rule in any form ignores the fact that the vast majority of rate plans in MSAs and adjoining RSAs are no longer offered as “local” plans. Instead, RSA plans and adjoining MSA plans are generally offered as part of a regional or national rate plan. The prominence of these national and regional markets for wireless services, along with the threat of competition from other providers, protects consumers from any possible anticompetitive behavior by a single carrier.

As detailed above, because the RSA cross-interest rule substitutes a formulaic rule for a proper analysis of the competitive benefits and effects of a proposed license transfer, the rule fails to serve a legitimate purpose as either a competitive “line-drawing” rule or a valid mechanism for protecting consumers. In light of the fact that the RSA cross-interest rule does not protect the public interest, and may actually harm it by inhibiting investment in RSAs, the Commission should expediently move to repeal the RSA cross-interest rule in its entirety.²⁹

B. The RUS Loan Rules Should Be Revised to Ensure Technological Neutrality

CTIA appreciates the Commission’s recent efforts to expand awareness of certain Rural Utility Service (“RUS”) programs that could assist rural wireless providers, and commends the Commission for examining “further regulatory or policy changes” that could improve the RUS loan programs.³⁰ In concept, the RUS loan programs could help assist wireless carriers to deploy infrastructure in rural areas, especially if interest rates

²⁹ The Commission’s review of every license transfer under the Public Interest standard will protect consumers from anticompetitive combinations.

³⁰ Notice at ¶ 72.

increase in the future. Unfortunately, the loan application rules and practices implemented by the RUS are unnecessarily bureaucratic, and in some cases clearly favor incumbent rural wireline providers at the expense of new wireless entrants.

The RUS broadband loan program is a good example of the “pro-wireline-incumbent” bias of the RUS approach, which has provided only a token amount of funding to new wireless providers. The application process for an RUS rural broadband loan currently consists of an application form along with at least 15 required attachments and exhibits.³¹ As part of these attachments and exhibits, an applicant is not only required to provide substantial detail regarding its own proposed activities,³² but is also required to provide information regarding any similar activities of potential competitors, as well as a “market study . . . to evaluate the needs of potential subscribers and their interest in services and/or goods to be provided.”³³ Furthermore, in areas where an incumbent provider is already offering some form of broadband service, the RUS rules give that incumbent provider “a two-year window in which the RUS would not consider applications proposing to offer [competing] broadband service” if the existing provider is a current RUS borrower.³⁴

³¹ See U.S. Department of Agriculture, Rural Utilities Service, *Rural Broadband Access Loan and Loan Guarantee Program Application Guide*, RUS Bulletin 1738-1 (version 5/8/03), at 19 (hereinafter “RUS Bulletin”).

³² See RUS Bulletin at 11-18 (requiring applicants to provide, among other things, a detailed business plan, system design information, financial projections, environmental impact statements, legal notification to “impacted” communities and certifications of compliance with numerous federal statutes and regulations).

³³ RUS Bulletin at 10.

³⁴ Department of Agriculture, Rural Utilities Service, *Rural Broadband Access Loans and Loan Guarantees*, 68 Fed. Reg. 4684, 4686 (Jan. 30, 2003).

The current application process, combined with the two-year “no competition” provision, is a substantial impediment to the use of RUS loans by rural wireless providers. Moreover, these provisions will almost certainly have the effect of delaying the availability of competitively priced broadband services in rural areas. To address these impediments, CTIA requests that the Commission work with the RUS to streamline the application process. In addition, the Commission should also urge the RUS to eliminate the two-year “no competition” provision, which serves no purpose other than to prevent true broadband competition in rural areas.

VII. The Commission Should Remove Impediments to Infrastructure Sharing

In the Notice, the Commission recognizes that infrastructure sharing arrangements “make it possible for providers to cover a large geographic area, and thus serve a greater number of customers,” which “may provide an important public interest benefit.”³⁵ To this end, the Commission requests comment on “the extent to which infrastructure sharing may promote service in rural markets.”³⁶

CTIA believes that infrastructure sharing can play a powerful role in improving both wireless deployment and competition by reducing the costs of capital construction in rural areas. Unfortunately, a number of state and local governments have either implemented policies or are in the process of implementing policies that could impact any national policy encouraging infrastructure sharing. For instance, the New York State Public Service Commission has recently initiated a proceeding to study the possibility of imposing “interconnection diversity” or other routing requirements on wireless providers

³⁵ Notice at ¶ 101.

³⁶ Notice at ¶ 106.

that could imperil infrastructure sharing arrangements in that state.³⁷ In addition, a number of localities have also imposed rights-of-way access and tower siting requirements that make both initial construction and subsequent sharing of facilities extremely difficult.

These policies are already having a negative effect on wireless carriers that are seeking to deploy and expand facilities in rural areas. To rectify this situation, CTIA encourages the Commission to formulate a national policy that removes state and local impediments to infrastructure sharing. In addition, the Commission should use its authority under Sections 332(c) and 253 to preempt state and local regulations that block development of wireless services in rural areas or voluntary carrier efforts to deploy new services through infrastructure sharing.

With regard to spectrum leasing arrangements, CTIA agrees with the Commission's conclusion "that licensees that make their spectrum in rural areas available to other parties via secondary markets are, in a sense, using that spectrum."³⁸ To the extent that this spectrum is used to provide a service, it should be considered "used," and not subject to releasing or other "take-back" mechanisms.

³⁷ See New York State Public Service Commission, Proceeding on the Motion of the Commission to Examine Telephone Network Reliability, Case 03-C-0922 (rel. Aug. 25, 2003) (requesting comment on New York State Department of Public Service White Paper recommending that the New York State Public Service Commission impose rules on wireless carriers to ensure "adequate and *geographically diverse* interconnecting facilities with the wireline network") (emphasis added).

³⁸ Notice at ¶ 108.

VIII. Rural Radiotelephone Service (“RRS”) and Basic Exchange Telecommunications Radio Service (“BETRS”)

The Commission also requests comment regarding the deployment and effectiveness of the Rural Radiotelephone Service (“RRS”) and the Basic Exchange Telecommunications Radio Service (“BETRS”) in rural areas.³⁹ Specifically, the Commission requests information on whether there is a current demand for RRS or BETRS and, if not, what steps the Commission can take to increase utilization of that spectrum.⁴⁰

CTIA supports efforts by the Commission to survey RRS and BETRS users as a preliminary step to determine the effectiveness of those services. Should that data show that RRS and BETRS spectrum is not being efficiently utilized, CTIA would support efforts by the Commission to reallocate the current RRS and BETRS spectrum to more spectrum efficient and commercially viable uses.

³⁹ See Notice at ¶¶ 109-116.

⁴⁰ See Notice at ¶ 111.

CONCLUSION

As detailed in these comments, the wireless industry has a very successful record of bringing new services to rural areas at extremely competitive prices. Going forward, CTIA urges the Commission to adopt the recommendations contained in these comments to continue the wireless success story in rural areas.

Respectfully submitted,

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